

PUBLIC ACTS, 1999

CHAPTER NO. 344

SENATE BILL NO. 868

By Burks, Atchley, Person, Williams, Crowe

Substituted for: House Bill No. 1618

By McMillan, Hargrove, Chumney, Black, Cooper, Hassell, Hagood, McDaniel, Odom, Harwell, Hargett, Pleasant, Miller, Brenda Turner, Todd, Pruitt, Langster, Ridgeway, Sherry Jones, Mr. Speaker Naifeh

AN ACT To amend Tennessee Code Annotated, Title 10, Chapter 7, Part 5 and Title 36, Chapter 3, Part 6, relative to protection of victims of domestic violence and victims and witnesses of crime.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 10-7-504, is amended by adding the following new subpart (15) to subsection (a):

(15)

(A) As used in this subsection:

(i) "Identifying information" means the home and work addresses and telephone numbers, social security number, and any other information that could reasonably be used to locate the whereabouts of an individual.

(ii) "Protection document" means:

(a) An order of protection issued pursuant to Tennessee Code Annotated, Title 36, Chapter 3, Part 6, that has been granted after proper notice and an opportunity to be heard;

(b) A similar order of protection issued by the court of another jurisdiction;

(c) An extension of an ex parte order of protection granted pursuant to Tennessee Code Annotated, Section 36-3-605(a);

(d) A similar extension of an ex parte order of protection granted by a court of competent jurisdiction in another jurisdiction;

(e) A restraining order issued by a court of competent jurisdiction prohibiting violence against the person to whom it is issued;

(f) A court order protecting the confidentiality of certain information issued upon the request of a district attorney to a

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victim or witness in a criminal case, whether pending or completed; and

(g) An affidavit from the director of a rape crisis center or domestic violence shelter certifying that an individual is a victim in need of protection provided such affidavit is on a standardized form to be developed and distributed to such centers and shelters by the Tennessee Task Force Against Domestic Violence; and

(iii) "Utility service provider" means any entity, whether public or private, that provides electricity, natural gas, water, or telephone service to customers on a subscription basis, whether or not regulated by the Tennessee Regulatory Authority.

(B) If the procedure set out in this subpart is followed, identifying information compiled and maintained by a utility service provider concerning a person who has obtained a valid protection document shall be treated as confidential and not open for inspection by the public.

(C) For the provisions of subdivision (B) to be applicable, a copy of the protection document must be presented during regular business hours by the person to whom it was granted to the records custodian of the utility service provider whose records such person seeks to make confidential and such person must request that all identifying information about such person be maintained as confidential.

(D) The protection document must at the time of presentation be in full force and effect. The records custodian may assume that a protection document is in full force and effect if it is on the proper form and if on its face it has not expired.

(E) Upon being presented with a valid protection document, the records custodian shall accept receipt of it and maintain it in a separate file containing in alphabetical order all protection documents presented to such custodian pursuant to this subpart. Nothing in this subpart shall be construed as prohibiting a records custodian from maintaining an electronic file of such protection documents provided the custodian retains the original document presented.

(F) Identifying information concerning a person that is maintained as confidential pursuant to this subpart shall remain confidential until the person who requested such confidentiality notifies in person the records custodian of the appropriate utility service provider that there is no longer a need for such information to remain confidential. A records custodian receiving such notification shall remove the protection document concerning such person from the file maintained pursuant to subdivision (E) and the identifying information about such person shall be treated in the same manner as the identifying information concerning any other customer of the utility. Provided, however, before removing the protection document and releasing any identifying information, the records custodian of the utility service provider shall require that the person requesting release of the identifying information maintained as

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confidential produce sufficient identification to satisfy such custodian that he or she is the same person as the person to whom the document was originally granted.

(G) After the effective date of this act, if information is requested from a utility service provider about a person other than the requestor and such request is for information that is in whole or in part identifying information, the records custodian of the utility service provider shall check the separate file containing all protection documents that have been presented to such utility. If the person about whom information is being requested has presented a valid protection document to the records custodian in accordance with the procedure set out in this subpart and has requested that identifying information about such person be maintained as confidential, the records custodian shall redact or refuse to disclose to the requestor any identifying information about such person.

(H) Nothing in this subpart shall prevent the district attorney general and counsel for the defendant from providing to each other in a pending criminal case, where the constitutional rights of the defendant require it, information which otherwise would be held confidential under this subpart.

SECTION 2. Tennessee Code Annotated, Section 10-7-504, is amended by adding the following new subpart (16) to subsection (a):

(16)

(A) As used in this subsection:

(i) "Governmental entity" means the State of Tennessee and any county, municipality, city or other political subdivision of the State of Tennessee;

(ii) "Identifying information" means the home and work addresses and telephone numbers, social security number, and any other information that could reasonably be used to locate the whereabouts of an individual.

(iii) "Protection document" means:

(a) An order of protection issued pursuant to Tennessee Code Annotated, Title 36, Chapter 3, Part 6, that has been granted after proper notice and an opportunity to be heard;

(b) A similar order of protection issued by the court of another jurisdiction;

(c) An extension of an ex parte order of protection granted pursuant to Tennessee Code Annotated, Section 36-3-605(a);

(d) A similar extension of an ex parte order of protection granted by a court of competent jurisdiction in another jurisdiction;

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(e) A restraining order issued by a court of competent jurisdiction prohibiting violence against the person to whom it is issued;

(f) A court order protecting the confidentiality of certain information issued upon the request of a district attorney to a victim or witness in a criminal case, whether pending or completed; and

(g) An affidavit from the director of a rape crisis center or domestic violence shelter certifying that an individual is a victim in need of protection provided such affidavit is on a standardized form to be developed and distributed to such centers and shelters by the Tennessee Task Force Against Domestic Violence; and

(B) If the procedure set out in this subpart is followed, identifying information compiled and maintained by a governmental entity concerning a person who has obtained a valid protection document may be treated as confidential and may not be open for inspection by the public.

(C) For the provisions of subdivision (B) to be applicable, a copy of the protection document must be presented during regular business hours by the person to whom it was granted to the records custodian of the governmental entity whose records such person seeks to make confidential and such person must request that all identifying information about such person be maintained as confidential.

(D) The protection document presented must at the time of presentation be in full force and effect. The records custodian may assume that a protection document is in full force and effect if it is on the proper form and if on its face it has not expired.

(E) Upon being presented with a valid protection document, the record custodian may accept receipt of it. If the records custodian does not accept receipt of such document, the custodian shall explain to the person presenting the document why receipt cannot be accepted and that the identifying information concerning such person will not be maintained as confidential. If the records custodian does accept receipt of the protection document, such custodian shall maintain it in a separate file containing in alphabetical order all protection documents presented to such custodian pursuant to this subpart. Nothing in this subpart shall be construed as prohibiting a records custodian from maintaining an electronic file of such protection documents provided the custodian retains the original document presented.

(F) Identifying information concerning a person that is maintained as confidential pursuant to this subpart shall remain confidential until the person requesting such confidentiality notifies in person the appropriate records custodian of the governmental entity that there is no longer a need for such information to remain confidential. A records custodian receiving such

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notification shall remove the protection document concerning such person from the file maintained pursuant to subdivision (E) and the identifying information about such person shall be treated in the same manner as identifying information maintained by the governmental entity about other persons. Provided, however, before removing the protection document and releasing any identifying information, the records custodian of the governmental entity shall require that the person requesting release of the identifying information maintained as confidential produce sufficient identification to satisfy such custodian that he or she is the same person as the person to whom the document was originally granted.

(G) After the effective date of this act, if:

(i) Information is requested from a governmental entity about a person other than the person making the request;

(ii) Such request is for information that is in whole or in part identifying information; and

(iii) The records custodian of the governmental entity to whom the request was made accepts receipt of protection documents and maintains identifying information as confidential;

then such records custodian shall check the separate file containing all protection documents that have been presented to such entity. If the person about whom information is being requested has presented a valid protection document to the records custodian in accordance with the procedure set out in this subpart and has requested that identifying information about such person be maintained as confidential, the records custodian shall redact or refuse to disclose to the requestor any identifying information about such person.

(H) Nothing in this subpart shall prevent the district attorney general and counsel for the defendant from providing to each other in a pending criminal case, where the constitutional rights of the defendant require it, information which otherwise may be held confidential under this subpart.

SECTION 3. Tennessee Code Annotated, Section 36-3-604, is amended by adding the following additional order to the Order of Protection form:

IT IS FURTHER ORDERED That the home and work addresses and telephone numbers, social security number and any other information requested to be held confidential which could reasonably be used to locate the whereabouts of the petitioner shall be maintained as confidential by the records custodian of a utility service provider under the provisions of Tennessee Code Annotated, Section 10-7-504(15), and may be maintained as confidential by the records custodian of a governmental entity under the provisions of Tennessee Code Annotated, Section 10-7-504(16), upon a copy of this Order of Protection being provided to the records custodian of the utility service provider or governmental entity maintaining the particular records sought to be held confidential.

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SECTION 4. Tennessee Code Annotated, Section 10-7-504, is amended by adding the following new subpart (17) to subsection (a):

(17) The telephone number, address and any other information which could be used to locate the whereabouts of a domestic violence shelter or rape crisis center may be treated as confidential by a governmental entity and shall be treated as confidential by a utility service provider as defined in Tennessee Code Annotated, Section 10-7-504(15) upon the director of the shelter or crisis center giving written notice to the records custodian of the appropriate entity or utility that such shelter or crisis center desires that such identifying information be maintained as confidential.

SECTION 5. Tennessee Code Annotated, Title 36, Chapter 3, Part 6, is amended by adding the following as a new section:

36-3-6__. The records of domestic violence shelters and rape crisis centers may be treated as confidential by the records custodian of such shelters or centers unless:

(a) The individual to whom the records pertain authorizes their release;
or

(b) A court approves a subpoena for the records, subject to such restrictions as the court may impose, including in camera review.

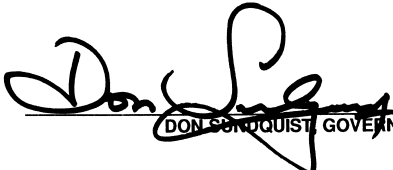
SECTION 6. For the purpose of the Tennessee Task Force Against Domestic Violence preparing a standardized affidavit form for directors of rape crisis centers and domestic violence shelters for use as a protection document, this act shall take effect upon becoming law, the public welfare requiring it. For all other purposes it shall take effect on July 1, 1999, the public welfare requiring it.

PASSED: May 27, 1999


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 14th day of June 1999


DON SUNDQUIST, GOVERNOR